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**UNITED STATES  
FEDERAL COMMUNICATIONS COMMISSION**

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In Re Applications of:	)	MM Docket No. 99-153
	)	
READING BROADCASTING, INC.	)	File No.: BRCT-940407KF
	)	
For Renewal of License of	)	
Station WTVE(TV), Channel 51	)	
at Reading, Pennsylvania	)	
	)	
and	)	
	)	
ADAMS COMMUNICATIONS	)	File No.: BPCT-94063KG
CORPORATION	)	
	)	
For Construction Permit for	)	
a New Television Station to	)	
Operate on Channel 51,	)	
Reading, Pennsylvania	)	

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Before the  
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Washington, D.C. 20554

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Reading, Pennsylvania	)	

Room TWA363  
FCC  
445 12th Street, N.W.  
Washington, D.C. 20554

Tuesday,  
November 23, 1999

The parties met, pursuant to the notice of the  
Judge, at 10:04 a.m.

BEFORE: HONORABLE RICHARD L. SIPPEL  
Administrative Law Judge

APPEARANCES:

On Behalf of Reading Broadcasting, Inc.:

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APPEARANCES: (Continued)

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P R O C E E D I N G S

(10:04 a.m.)

JUDGE SIPPEL: Good morning. Be seated.

This conference was called by my Order 99M-77 issued and communicated to counsel on February, November the 18th.

Will counsel note their appearances on the record in docket order, starting with Reading?

MR. HUTTON: Thomas Hutton, on behalf of Reading Broadcasting, Inc.

JUDGE SIPPEL: And on behalf of Adams?

MR. BECHTEL: Gene Bechtel and Harry Cole, sir.

JUDGE SIPPEL: And behalf of the Bureau, Enforcement Bureau?

MR. SHOOK: James Shook, on behalf of the Chief, Enforcement Bureau.

JUDGE SIPPEL: All right. I have my own agenda of things I wanted to cover. None of these items should take particularly long, but the one I am most concerned about is the scheduling with respect to discovery on the added issue between now and January 6th. In the same context, I acknowledge that I have received Reading's motion to suspend procedural date, which was submitted yesterday, November the 22nd.

I'm going to ask, of course, the views of counsel.

1 We're going to have a lot on the views of counsel today.  
2 But my preliminary ruling on this is I'm not going to change  
3 the January 6th hearing date, but I am going to -- I am  
4 certainly going to make adjustments with respect to  
5 discovery on the misrepresentation issue, so I want to  
6 approach this with as much of an open mind as I can.

7 Let me first say that this is a motion, it's a  
8 motion to suspend, and I might be able to resolve it today  
9 but I would really like to have the very thoughtful  
10 responses of counsel for Adams and counsel for the Bureau,  
11 you know, unless you're convinced by the time you leave this  
12 morning that that really isn't necessary.

13 So I'm going to put a -- let me think -- a  
14 response date on that for, let's see, November the 30th,  
15 November the 30th. Now, that's on the motion to suspend  
16 procedural dates.

17 There are other motions outstanding that call for  
18 responsive pleadings. In light of Thanksgiving being just a  
19 few days away, I'm going to accommodate counsel, and I hope  
20 that you're satisfied with these accommodations.

21 But on the motion -- on Adams' motion to add the  
22 transfer of control issue, which has been opposed, I'll set  
23 the reply date for Wednesday the 1st of December. Okay, and  
24 on Reading's motion to dismiss or alternatively for an abuse  
25 of process issue, that was opposed by Adams yesterday, and I

1 want to set a reply for the same time; that is, would be the  
2 December the 1st, which would be a Wednesday, and so I get a  
3 chance to be totally equitable and I want to take advantage  
4 of that.

5 Now, what to do about the added issue and, of  
6 course, the potential for any other added issue, which you  
7 certainly will know about before the end of December. This  
8 is why -- this is one of the reasons why I don't want to  
9 give up that January 6th hearing date, because I don't see  
10 any reason why we can't get that aspect of the case out of  
11 the way; that is, the comparative issue out of the way, and  
12 then turn to focus on -- we have the given with the  
13 misrepresentation issue, and perhaps any other issues that  
14 might have been added by that time. However, I do  
15 acknowledge the concern raised by Mr. Hutton with respect to  
16 trying to actively litigation -- the discovery on the  
17 misrepresentation issue at the same time getting prepared  
18 for the comparatives. It's a tough management call.

19 But I'll tell you why I am -- I mean, me being the  
20 management type. If we keep deferring the hearing date on  
21 the comparative issue, it's simply going to -- at the back  
22 end of that comparative issue, there is always going to be  
23 additional time for the added issue or added issues. So I  
24 don't see where it's going to -- it's not going to shorten  
25 the time in which the case could be resolved, number one.

1 And number two, of course, I'm very reluctant to consider  
2 just putting everything aside to determine one issue which  
3 could be dispositive of the Adams application, in which case  
4 I am sure that there is going to be appeals, which would put  
5 the whole case in a status of abeyance for some period of  
6 time. So I don't see that as really being a reasonable  
7 option.

8 I'm going to ask -- well, you can start. Let me  
9 hear what you have to say, Mr. Hutton. Recognizing the fact  
10 that, I mean, I am sympathetic to the concerns you raise, I  
11 haven't gotten as far as you have with respect to the  
12 relief.

13 MR. HUTTON: All right.

14 JUDGE SIPPEL: Go ahead.

15 MR. HUTTON: It's my view that on abuse of process  
16 issue differs from any other potential qualifying issue in  
17 two very fundamental respects. The first has to do with the  
18 remedy. With the candor issue designated against Reading  
19 Broadcasting, if there were an adverse finding there are a  
20 number of potential remedies, including short-term renewal  
21 or a renewal conditioned upon removing Mr. Parker as an  
22 attributable principal in Reading Broadcasting.

23 Alternatively, however, on the case of an adverse  
24 finding of an abuse of process, dismissal of the application  
25 is a foregone conclusion, and the only issue on remedy is

1     what other sanctions to impose, such as a forfeiture.

2                 The second, and I think more fundamental  
3     distinction is this, the ability to stop the conduct in  
4     question.

5                 Now, on the lack of candor issue designated  
6     against Reading Broadcasting, all that activity happened  
7     several years ago, and there is no opportunity for anyone at  
8     the Commission to stop the conduct in question, and there is  
9     no concern about that.

10                However, with the abuse of process issue, the  
11     application itself is the abusive conduct and there is an  
12     opportunity for the Commission to take action to stop it in  
13     its tracks, and the Commission has repeatedly stated its  
14     concern over abuses of its processes in the renewal context.  
15     It seems to me that the reasonable approach is to put some  
16     teeth in that, and take action immediately when potential  
17     abuse is spotted.

18                That's the gist of my --

19                JUDGE SIPPEL: That's the gist of the argument,  
20     okay. Well, you raised interesting points.

21                Why don't I ask the Bureau to address it first and  
22     so then Adams can have the whole, the whole scheme to  
23     address at one time.

24                Is that alright with you, Mr. Bechtel? Can I have  
25     them --



1 MR. BECHTEL: Yes. I think Mr. Cole will be  
2 arguing this particular --

3 JUDGE SIPPEL: Oh, Mr. Cole. Okay.  
4 Mr. Shook?

5 MR. SHOOK: Your Honor, so I understand, may I  
6 inquire as to your basic concern at this point because I  
7 think that would probably, you know, help me in formulating  
8 an answer?

9 JUDGE SIPPEL: Well, my basic concern is that the  
10 relief that Mr. Hutton is asking for would certainly  
11 bifurcate the case unless the came never came back to me.

12 MR. SHOOK: In other words, if the abuse issue is  
13 added, do we then drop everything to decide only that  
14 question?

15 JUDGE SIPPEL: That's right. That's the first  
16 concern. I mean, that's the major, that's the major relief.  
17 That's the most significant relief that Mr. Hutton is asking  
18 for this morning procedurally by virtue of his motion.

19 Now, my concern for that is, and I know the  
20 Commission has a policy against, first of all, getting cases  
21 in a bifurcated way, getting it up to the Commission that  
22 way. If it goes up on one issue, even though it's a  
23 significant issue, which has all the characteristics that  
24 Mr. Hutton articulated, the Commission may not like that  
25 just as a matter of principle and send it back to have

1 evidence taken on all of the other issues, including  
2 comparative issues.

3           Alternatively, if the Commission says, "Well,  
4 okay, we will decide it but we don't think that Mr. Hutton  
5 has made his case," then it comes back, again with the same  
6 ingredients of Reading, and if the Commission adopts the  
7 arguments of Reading and disqualifies the Adams application,  
8 I believe as the night follows the day that there is going  
9 to be an appeal to the Court of Appeals, and, you know,  
10 we're going to be left waiting and wondering for a  
11 considerable period of time doing nothing, in the meantime  
12 doing nothing.

13           So it's the efficiencies of it that just to me  
14 don't seem to merit this kind of relief that he's asking,  
15 the scope of the relief that he's asking for.

16           MR. HUTTON: Can I speak to the efficiency issue?

17           JUDGE SIPPEL: Certainly.

18           MR. HUTTON: Having the company defend itself on  
19 this license renewal challenge is an enormous imposition.  
20 It affects peoples' livelihoods. It affects investments  
21 made many years ago. And if the abuse of process claim  
22 stands up, you will have required people to have sunk  
23 further money into defending this application for no reason  
24 other than administrative efficiency. And I can understand  
25 the concern about administrative efficiency, but there are

1 real lives and livelihoods at stake here.

2 JUDGE SIPPEL: Well, I don't mean to suggest that  
3 I'm just disregarding those considerations on an efficiency  
4 analysis here. I'm tieing my efficiency analysis -- my  
5 efficiency concerns in with what I think that the policy of  
6 the Commission is. The Commission does not like cases  
7 coming up in a bifurcated way. They just don't like it, and  
8 there is -- in one of their policy statements, they even  
9 stated that. They want the case decided on one -- they want  
10 all the issues decided at one time, and then up to them.

11 Now, that's -- unless there is a new policy or  
12 unless I'm misreading something, that's my major -- that's  
13 what I'm trying to accommodate today. I mean, that's got to  
14 be my primary accommodation.

15 I understand what you're saying, and I -- you  
16 know, I don't really have an answer for it. I mean, this is  
17 one of the -- all of the hardships that you refer to are all  
18 part and parcel of any litigation involving private parties.  
19 It's always a tremendous emotionally disturbing experience  
20 for everybody affected by it, particularly if you're on the  
21 defense side, but I don't know what I can do about that.

22 Let's see if Mr. Shook has something to say.

23 MR. SHOOK: Your Honor, we're essentially dealing  
24 with, you know, a last of a kind here, and in certain  
25 respects we're also dealing with the first of a kind in the

1 sense that I'm not aware of any prior comparative renewal  
2 cases where the challenging applicant could possibly be  
3 faced with an abuse of process issue that was going to, you  
4 know, either be blended into a total hearing or that came up  
5 at a much earlier stage and then was going to be dealt with  
6 separately. We don't really have any guides here.

7 As far as that goes, I believe the Bureau's  
8 position would be that we should try to deal with every  
9 major issue pretty much at the same time, whether that means  
10 one continuous hearing and we go from one issue to the next  
11 or whether we, you know, take evidence on one issue and then  
12 complete discovery, take evidence on the next issue, et  
13 cetera, until we are completely finished at this level with  
14 every possible major question that we could have, and then  
15 it could go up to the Commission in one package following  
16 your issuance of an initial decision, and then the  
17 Commission has everything that it needs to ultimately decide  
18 who should have this license.

19 So with all that in mind, I think the Bureau's  
20 preference would be to have all the major issues decided at  
21 one time and not to bifurcate, not to have separate initial  
22 decisions which would then have separate appellate tracks,  
23 which could lead all the way to the Court of Appeals. I  
24 mean, we could be at this for years on one issue, and then  
25 if at any point along the way either the Commission or the

1 Court of Appeals disagrees with what's been done at this  
2 level, we get the matter kicked back to us and we're  
3 starting all over again and we really haven't accomplished  
4 what we want to accomplish here, which is to decide who is  
5 going to get this license.

6 JUDGE SIPPEL: Well, to help your -- one point  
7 along a little bit, I know in the Garden State case, Garden  
8 State Broadcasting, which did up to the Court of Appeals  
9 that I'm very familiar with, that is exactly what happened  
10 in the course of that case. It was a comparative case. It  
11 was set for a hearing. The issues -- an abuse of process  
12 issue was sought. The abuse of process issue was added, and  
13 the case went forward with that to be another one of -- at  
14 least that one and perhaps others as added issues, together  
15 with the comparative case.

16 My best recollection of what -- I know what  
17 happened. I mean, I know at a point that it reached a point  
18 where the parties went into a settlement mode, but the  
19 question never had to be addressed in terms of bifurcating  
20 that hearing for purposes of -- for reason that Mr. Hutton  
21 has articulated; at least I don't recall that.

22 So to the extent that that's any precedent, the  
23 Commission certainly -- it never certainly went up to the  
24 Commission on any kind of an interlocutory basis, and it's  
25 been my experience with the Commission with getting cases,

1     you know, by way of summary decision or anything that  
2     disposes of the case that doesn't treat all the issues, it  
3     is a good likelihood that the case is going to come back. I  
4     mean, that's been my own experience.

5                 But anyway, let's hear from Mr. Cole. Thank you,  
6     Mr. Shook.

7                 MR. COLE: Your Honor, Adams opposes bifurcation  
8     obviously and opposes the suspension motion. I'm a little  
9     bit surprised that -- with all due respect to Mr. Hutton --  
10    he's getting as much credibility on this as he is because  
11    this case already had two issues which are designated: the  
12    comparative issue and the disqualifying issue against  
13    Reading Broadcasting. There are no other issues which have  
14    been designated at this point.

15                All he has is his allegations set forth in a  
16    motion, which we have opposed. We opposed simultaneously  
17    with the filing of the suspension motion, so I don't  
18    anticipate, although I could be wrong on this, I don't  
19    anticipate Mr. Hutton had the benefit of our opposition  
20    before he filed the suspension motion.

21                That being the case, talking about what will  
22    happen if a motion to dismiss is granted or if a motion to  
23    enlarge on an abuse of process issue is granted is extremely  
24    premature at this point. Nothing has happened. All we have  
25    are their one-sided allegations. We do have an added issue

1 on their qualifications. If his theory is correct, that is,  
2 if it is efficient to look at the issues that have been  
3 added that could dispose of the case summarily or promptly,  
4 we would then, in keeping with that theory, try the  
5 disqualifying issue against Reading, which has already been  
6 added, drop everything else, and move forward with that  
7 issue. And if it turns out that Reading is disqualified,  
8 then so be it. That's the end of the argument.

9 But we have not proposed that. We agree with the  
10 Bureau that consolidated hearing on all issues, at least in  
11 some form, possibly in phases, but certainly a consolidated  
12 package of hearing is the appropriate way to address this.

13 JUDGE SIPPEL: All right. I didn't mean to  
14 suggest by any stretch of the imagination that I have made a  
15 determination on the request for the issue on the abuse of  
16 process. What I'm trying to address is the concern that if  
17 I were to -- if I were to buy even the theory or the  
18 structure of Mr. Hutton's argument or accept the structure  
19 of it, there would be a consideration about delaying things  
20 while I actually address the issue; in other words, while I  
21 was awaiting the reply briefs and then writing a ruling on  
22 it.

23 I don't want -- I am trying to undercut all of  
24 that from the standpoint of how this case has to be run, not  
25 from the standpoint of the merits of anything. But I hear

1     you.

2                   And as I say, I am prepared to rule on the motion  
3     to suspend procedural dates today, which would mean that Mr.  
4     Cole and Mr. Shook would not have to file a pleading, but I  
5     have set a date for the -- it was the 30th of October,  
6     November rather. If you care to file, I will wait until  
7     that time, so that's up to you.

8                   MR. SHOOK: I believe we have said everything that  
9     we need to say on the subject.

10                  JUDGE SIPPEL: Mr. Cole, do you want to file  
11     something? I mean, I'll wait until you -- if you want to  
12     put something on the record, I can wait. I think, I mean, I  
13     don't think there is any mystery in terms of which way I'm  
14     headed.

15                  MR. COLE: No, I think I said my piece, Your  
16     Honor. If you want to rule today, that's fine.

17                  JUDGE SIPPEL: All right. Well, I'll make a  
18     formal written ruling on it. I want to be sure that I am  
19     carefully considering everything that Mr. Hutton has in his  
20     paper.

21                  But, you know, now I'm back to where I was when I  
22     issued my order calling this conference, and that is, I  
23     think, a very legitimate concern about trying to achieve  
24     discovery to the extent that it would be complete enough to  
25     try the misrepresentation issue in January, and I don't



1 have, I really don't have an immediate answer to that.

2 In terms of what I have seen thus far in the  
3 discovery efforts, which have been very timely on behalf of  
4 the Bureau and on behalf of Adams, what with the motions  
5 that are going to come up as a result of that, I know, there  
6 is no way --

7 MR. SHOOK: We anticipate, Your Honor, that Mr.  
8 Hutton will respond fully to our document request and  
9 interrogatories and there won't be any problem there.

10 JUDGE SIPPEL: Well.

11 MR. COLE: Your Honor, the problem is I can't swim  
12 and jump on a pogo stick at the same time.

13 (Laughter.)

14 JUDGE SIPPEL: And also, we're pushing through  
15 probably the most inconvenient period of the year in terms  
16 of asking people to drop things and do things, and I'm  
17 talking with respect to the people who would be immediately  
18 concerns with responding to this. I'm excluding attorneys  
19 who may be sought to be deposed and things.

20 What I am inclined to do -- well, first of all, I  
21 would like to hear, I would like to hear from everybody here  
22 in terms of what your solution might be to this, how would  
23 you want to approach it. Let me start with Mr. Cole.

24 MR. COLE: Well, Your Honor, as you observed,  
25 Adams has tried to structure its discovery request thus far

1 to comport with the original deadline, although it's  
2 obviously tight. And if we had more time on the discovery  
3 end, that would be helpful because that would obviously  
4 allow us some scrimmaging about documents being produced and  
5 so forth, and I would obviously prefer to have documents  
6 available when I do my depositions.

7 But you know, we scheduled the depositions to  
8 comport with your deadlines and then worked backwards, so  
9 there is some possibility at this point that that won't  
10 happen given the current schedule.

11 So from my point of view, some relaxation would  
12 be -- of the discovery deadlines -- would be useful, but  
13 you're correct that we're running into the holiday season  
14 from Thanksgiving through New Years, which makes it  
15 difficult.

16 Now, from my own point of view, this is unlike the  
17 comparative phase where I anticipate as of right now at  
18 least that the depositions will consist of just the three  
19 that I have already noticed so far, which would be Mr.  
20 Parker, and then the two counsel who are both in town, I  
21 have spoken with both of them, it's Ms. Friedman and Mr.  
22 Cravatz, and they are both in town and I assume would be  
23 available to schedule, to reschedule as convenient for them  
24 for depositions somewhere in town at a later date.

25 So I mean, that's my observation. I don't know if

1     that's helpful, but that's my observation.

2             JUDGE SIPPEL: Well, no, that is very helpful  
3     because what I am thinking is if -- I want to ask Mr. Hutton  
4     this question, and then I'm going to get Mr. Shook's views  
5     on this too, of course. But the Bureau -- I mean, there has  
6     been, with the exception of depositions, which are -- you  
7     know, which is kind of a never-never land in terms of  
8     determining anything with accuracy, the interrogatory, the  
9     Bureau's interrogatories, the Enforcement Bureau's request  
10    for documents, and then there is also the first sent of  
11    document request of Adams.

12            I want to ask this question of Mr. Hutton, of  
13    course, but would Hutton be in a position -- I'm sorry.  
14    Would Reading be in a position, Mr. Hutton, and, of course,  
15    I do know that you're -- I mean, your firm has got  
16    resources. Would they be able to -- would it be possible to  
17    prepare the comparative case and respond to the document and  
18    the interrogatory aspect of this discovery between now and  
19    the first of the year?

20            MR. HUTTON: I don't think it's possible, Your  
21    Honor. What I would move for is to suspend the procedural  
22    dates on the candor issue until we have finished the  
23    comparative phase of the hearing, and at the end of the  
24    comparative phase set new dates for the candor issue,  
25    including dates for Reading to respond to the pending

1 document motions.

2 JUDGE SIPPEL: What does the Bureau think about  
3 that?

4 MR. SHOOK: Your Honor, that doesn't strike me as  
5 unreasonable. It's a matter of allowing the parties to  
6 focus their attention on, you know, one particular matter at  
7 a time. I'm afraid the way this has all arisen tends to --  
8 it doesn't cause the Bureau that significant problem because  
9 at this stage our focus is on the added issue. However, I  
10 can understand that the private parties have a much  
11 different problem and perspective, which is they have got  
12 two very different matters to try to deal with that have  
13 come up at different times. They are in the middle or  
14 perhaps toward the end of the comparative aspect of matters,  
15 and now all of a sudden there is a new completely different  
16 matter that they have to focus on, and I can understand why  
17 it's a problem for them.

18 And so if there is some accommodation between them  
19 with Your Honor's approval, of course, the Bureau has no  
20 problem with waiting to focus on the added issue until after  
21 the comparative matter has reached -- has completed the  
22 hearing aspect of it. Then we can focus our attention on  
23 the added issue or added issues, if we have more than one.

24 JUDGE SIPPEL: Well, that's -- you know, having  
25 heard that, having heard the Bureau's position on it, I

1 don't see, in light of everything else that I've said about,  
2 you know, where we are in this case and the time of year it  
3 is and all the work that's going to have to be done, not  
4 only -- I mean, just on the comparative case alone, I don't  
5 see any purpose in trying to shoe horn something as  
6 definitive as a misrepresentation issue into this time  
7 frame.

8 So to the extent that -- did you want to say  
9 anything more on this, Mr. Cole?

10 MR. COLE: No, Your Honor. I was going to say  
11 that we can live with Mr. Hutton's suggestion that if you  
12 want to defer discovery on the misrepresentation issue  
13 pending the comparative proceeding, we can live with that.  
14 I mean, obviously we've gotten our -- we've gotten our  
15 things started. And if you were to suspend it, I would  
16 contact the deponents and tell them that we will reschedule  
17 them at some point down the line, and then, you know, sit  
18 back and work on the comparative issue.

19 JUDGE SIPPEL: Well, that's where I'm coming out  
20 on this. So to the extent that there has been a motion to  
21 suspend, I would partially grant some of the relief that Mr.  
22 Hutton is asking for. I mean, I think this is very well.  
23 The timing and the way it was brought to my attention was  
24 most appropriate because, you know, I do have other things  
25 besides this case that I'm working on, and sometimes you

1     lose sight of all of the activity that's going on, and I  
2     don't want to do that and you all, I don't think, will let  
3     me.

4             Anyway, that's the way we will deal with this.  
5     We're going to try the case, the comparative case in January  
6     on the date set, and there will be no more work with respect  
7     to any added issue, the one that has been added or any other  
8     added issue, if there are any other added issues, until  
9     after the comparative case is closed, until the record is  
10    closed on it.

11            Now, I will defer on -- I will also defer on  
12    proposed findings unless counsel, unless you agree that you  
13    want to do it some other way. My strong suggestion would be  
14    that you have somebody drafting proposed findings soon after  
15    the comparative case closes down so that you don't lose the  
16    thought train that goes along trying a case.

17            But then we can set a discovery schedule for -- it  
18    would be probably throughout the month of February and maybe  
19    into March. I mean, we will have to meet again on that, of  
20    course, but in general terms we'd be thinking in terms of  
21    discovery in February and March, unless there is some time  
22    left over in January, and then picking up, agreeing to a  
23    hearing date starting some time in March probably.

24            Does anybody see it any differently as far as time  
25    goes?

1 I'm sort of acting under the assumption that the  
2 month of January will be adequate to handle the comparative  
3 issues as weighty as some of the evidence might be. Does  
4 anybody see a problem with that?

5 MR. COLE: No, Your Honor.

6 MR. HUTTON: No.

7 MR. SHOOK: No, Your Honor.

8 JUDGE SIPPEL: Does anybody -- well, I know I have  
9 my list, and I'm just going to go down my list and see if  
10 everything -- if everything is getting taken care of here.

11 The abuse of process issue, okay, we've set the  
12 dates on that for the -- the Bureau will reply -- I'm sorry,  
13 the Bureau will comment, I suspect, or reply, and let's see,  
14 well, the responsive pleading coming out of that is -- let  
15 me see, the issue was filed by -- the issue was filed -- the  
16 motion was filed by Reading. Adams opposed it yesterday.  
17 The Bureau has expressed on its comment really -- I will  
18 consider it basically to be conditionally in support of the  
19 Reading motion with respect to abuse of process was on a  
20 wait and see basis. I mean, that is now in; that is, the  
21 Adams' pleading is now in. So I would want a responsive  
22 pleading, whether in the form of a comment or however you  
23 want to characterize it, with respect to what's been in that  
24 pleading on the abuse of process issue.

25 MR. SHOOK: We understand.

1 JUDGE SIPPEL: Okay. Now, let me say this too,  
2 that Reading and the Bureau, I'm just referring to my notes  
3 here, but Reading and the Bureau may use or refer to the  
4 Adams fee agreement in replies, in the final reply document  
5 to the Adams opposition.

6 I had initially ordered, as you all know, under  
7 99M-71, I believe it was, that there was no reason to put  
8 that document or documents on the record. I see now that  
9 there is, and this is an exercise of my discretion, I'm  
10 going to authorize that to be put on the record. I don't  
11 see any reason at all that -- any basis in law that Adams  
12 would have to protect that information from the -- you know,  
13 from the public record, particularly in light of what we're  
14 dealing with here, and that would also go to -- now, I know,  
15 remember we had that ruling on the telephone or telephone  
16 ruling on questions in this area in the deposition. So I  
17 mean, if there is any information that came out of that  
18 deposition that amplifies or that somehow or other qualifies  
19 the documents themselves, that would also come in.

20 MR. COLE: Your Honor, pursuant to that  
21 observation, would you like me to -- I have not previously  
22 provided copies of those agreements to the Bureau. Should I  
23 do that this afternoon? Would that be encompassed in your  
24 ruling that I make copies available to the Bureau?

25 JUDGE SIPPEL: The Bureau doesn't have --



1 MR. COLE: No, they don't have copies of it.

2 JUDGE SIPPEL: Absolutely.

3 MR. COLE: Absolutely. Fine.

4 JUDGE SIPPEL: Thank you.

5 MR. SHOOK: Thank you. Yes.

6 JUDGE SIPPEL: Okay, that's very timely, Mr. Cole,  
7 very timely.

8 As I say, I am just kind of hitting points here,  
9 so there is not necessarily going to be consistency here  
10 with what I have said before.

11 By December 2nd, Reading is to complete the  
12 documentary production of minutes and the related documents.  
13 That was per FCC 99M-65. I guess that, again, is -- I just  
14 ruled on that just the other day too. I just did -- yes,  
15 supplemented it, I guess, by 99M-78.

16 Can you meet that date, December 2nd? I mean, it  
17 sounds like it's just a -- these are cleanup items.

18 MR. COLE: As far as I know, we can.

19 JUDGE SIPPEL: Certainly if you can't, I mean, you  
20 can file a status report and explain what's going on.

21 MR. COLE: Okay.

22 JUDGE SIPPEL: Particularly documents that are --  
23 you know, that are identified in the minutes and there may  
24 be, you know, people might be having trouble finding them,  
25 but we'll work with that.

1           The Tom Root lawsuit, how is that going to impact  
2   on any discovery? There would be nothing -- there really  
3   was not a firm -- do you want to address that, Mr. Bechtel?

4           MR. BECHTEL: I'll address that. I am really not  
5   comfortable in addressing it at this point because we have  
6   not completed our consultation with our counsel in the case.

7           JUDGE SIPPEL: All right. As far as you know, I  
8   mean, I'm just asking from your side of the table, there is  
9   no reason that that's going to cause any delay in the  
10  process of this case?

11          There is no reason --

12          MR. BECHTEL: What, sir?

13          JUDGE SIPPEL: -- that it's going to cause any  
14  delay in the process of this case?

15          MR. BECHTEL: No, sir.

16          JUDGE SIPPEL: You said no?

17          MR. BECHTEL: There is no reason for that to cause  
18  any delay. The answer is that's true.

19          JUDGE SIPPEL: Okay. All right.

20          As I said before, there will be no change in the  
21  January 6th hearing date. Discovery underway on the added  
22  misrepresentation issue, well, okay, we've hit all those  
23  two. That's just going to be put in abeyance, and the  
24  motion to suspend.

25          On some miscellaneous matters, there were some

1 employee addresses that were sought by Adams of Reading  
2 under 99M-70. Is that under control? Is that either being  
3 obtained or has that been given to Mr. Cole?

4 I'm asking that of Mr. Hutton. Do you know?

5 MR. HUTTON: As far as know, we have given the  
6 last known address for each of the employees.

7 MR. BECHTEL: We've received that.

8 JUDGE SIPPEL: You've received -- you're satisfied  
9 with that item?

10 MR. BECHTEL: That is correct, Your Honor.

11 JUDGE SIPPEL: All right. The Aurandt,  
12 A-U-R-A-N-D-T, pledge and loan agreements, they were never  
13 executed and we have a declaration from Mr. Piper on that,  
14 so there is nothing more to do on that at this point; is  
15 that correct?

16 MR. BECHTEL: That is correct, sir.

17 JUDGE SIPPEL: Okay. And then on Reading's side,  
18 they had sought discovery, which was addressed in 99M-74,  
19 three items: the Adams' documents that claimed to be  
20 privileged.

21 Is that -- is that nailed down? Do you have what  
22 you were seeking on that? I ordered that they produce it?

23 MR. HUTTON: They did turn over two letters that  
24 they had not turned over previously.

25 JUDGE SIPPEL: All right. So are you satisfied

1     that they are in compliance with that ruling?

2             MR. HUTTON:  Yes.

3             JUDGE SIPPEL:  Okay.  The information with respect  
4     to Station WGLY, that was determined to be too remote in  
5     time, so there is nothing further to do on that.

6             MR. HUTTON:  Right.

7             JUDGE SIPPEL:  And the enhancement evidence, the  
8     enhancement evidence for Adams, has that all been completed?  
9     Yes or no or?

10            MR. HUTTON:  Well, you know, in my own mind I'm  
11     not sure.

12            JUDGE SIPPEL:  All right.

13            MR. HUTTON:  In the depositions, none of them  
14     claimed any local civic activities, but they have now  
15     produced resumes which do list some civic activities, which  
16     don't seem to be local, so I can cross-examine them at the  
17     hearing, but we may be able to avoid that if we can  
18     stipulate that there are no civil activities claimed.

19            JUDGE SIPPEL:  How about that, Mr. Cole?

20            MR. COLE:  I believe we would be interested -- we  
21     would be willing to do that, but I'll have to check with the  
22     client, but I thought that I had previously indicated in our  
23     submissions that none of the Reading -- none of the Adams'  
24     principals has ever been locally resident in Reading, and I  
25     thought I had represented that they are not claiming any

1 local civic involvement, local to reading, but I will double  
2 check on that and certainly if that's the case, we would be  
3 happy to stipulate it.

4 JUDGE SIPPEL: All right, that's fine. That's  
5 fine. You can always try and get -- if this is not working  
6 satisfactory, you can always ask for answers to a few short  
7 interrogatories, or we could have another conference. I  
8 mean, you're entitled to have a full deck when you go to  
9 hearing. I'm looking at Mr. Hutton when I say that, but I  
10 mean that to everybody.

11 Pending motions, all right, we know that. The  
12 added issue on the misrepresentation with respect to  
13 bankruptcy, that's ready to decide. And as soon as I get  
14 something off my desk, which is going to be soon on another  
15 case, I'm going to move on that very quickly.

16 And then the one on the -- the Adams' motion to  
17 transfer control, that still has an outstanding pleading  
18 that's going to come in on the 1st of December, and  
19 Reading's motion to dismiss abuse of process began. That  
20 was the one we talked about beginning. Those are all  
21 December 1 reply dates, and, you know, again, I will move on  
22 them as rapidly as I can.

23 And I think that's it. Other than that, we have  
24 nothing more until the 6th of January.

25 Mr. Shook?

1 MR. SHOOK: Your Honor, I just wanted to make sure  
2 that there was an understanding. We were going to submit a  
3 comment with respect to the abuse of process pleading. We  
4 were not going to say anything else with respect to the  
5 transfer of control allegation. Our pleading had opposed  
6 addition of that issue.

7 JUDGE SIPPEL: Right.

8 MR. SHOOK: There is really nothing more for us to  
9 say on that subject.

10 JUDGE SIPPEL: The Bureau is complete but there  
11 still is a reply.

12 MR. SHOOK: Right, that would be for --

13 JUDGE SIPPEL: That would be for Mr. Cole and Mr.  
14 Bechtel.

15 MR. SHOOK: Right. Or whoever.

16 JUDGE SIPPEL: I hear you, but the Bureau -- I'm  
17 going to make a note of that. The Bureau is complete on  
18 that, okay.

19 MR. COLE: Your Honor.

20 JUDGE SIPPEL: Yes, Mr. Cole.

21 MR. COLE: For the sake of clarification, am I  
22 correct that when we walk out of here, even though a formal  
23 order has not issued, that discovery under them misrep.,  
24 lack of candor issue has been suspended for the time being  
25 because I just want to know so I can contact the deponents

1 and let them know where things stand?

2 JUDGE SIPPEL: You certainly may do that. You  
3 walk out of here assuming that it is totally -- there will  
4 be nothing more to be focused on except -- except for me.

5 MR. COLE: Right.

6 JUDGE SIPPEL: There will be nothing more for --  
7 and except these two pleadings that have to come in on the  
8 1st of December.

9 MR. COLE: Right.

10 JUDGE SIPPEL: Nobody is going to need to file  
11 anything on the motion to suspend.

12 MR. COLE: Okay.

13 MR. HUTTON: And that includes the point that I  
14 don't have to object now to the scope of any discovery  
15 motions by the Bureau or by Adams on the candor issue,  
16 that's correct?

17 JUDGE SIPPEL: On the candor issue. You mean, on  
18 the -- yes, the misrep. candor issue?

19 MR. HUTTON: Yes.

20 JUDGE SIPPEL: Yes, nothing more has to be done.  
21 You just consider everything to be in a frozen, in a state  
22 of deep freeze until we finish our work in January, and then  
23 we will -- you know, I'm sure we will meet again, and we  
24 will pick up -- we will have instant recollection of where  
25 we left off.

1 (Laughter.)

2 MR. HUTTON: We can all help each other on that  
3 subject.

4 JUDGE SIPPEL: Enjoy your holidays.

5 MR. HUTTON: Thank you, Your Honor.

6 JUDGE SIPPEL: We're in recess. Thank you.

7 (Whereupon, at 10:45 a.m., the status conference  
8 in the above-entitled matter was adjourned.)

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**REPORTER'S CERTIFICATE**

FCC DOCKET NO.: 99-153

CASE TITLE: IN RE: READING BROADCASTING

HEARING DATE: NOVEMBER 23, 1999

LOCATION: WASHINGTON, DC

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